

A. CICALESE

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<p>1 recall? I don't think you know. 2 A I don't remember who they were. 3 Q Okay. It was an outside paralegal firm? 4 A Yeah, they were right on the corner of -- 5 by the Holiday Inn there in West Long Branch. It 6 was the Holiday Inn at that time I guess in Ocean 7 Port. There was a building there that looks like a 8 prison building with real skinny windows. In that 9 building. 10 Q Okay. 11 A In that building. 12 Q All right. We will see if they are still 13 there. Although you don't know if it was correct, 14 it was just prepared by them? 15 A I did it with them, yeah, in the office 16 there one day. 17 Q Okay. And then on page -- what's marked 18 CI-4883 and 4884 these are the closing instructions 19 received by Walsh Securities; are you familiar with 20 these closing instructions? 21 A Yes. 22 Q And they were sent to you by Walsh 23 Securities? 24 A Correct. 25 Q Okay. And were all closing instructions</p>	<p>1 average? 2 A No. 3 Q Is 857.50 high for a real estate 4 appraisal? 5 A I don't know. 6 Q I am asking because I am refinancing and 7 it's a hell of a lot less. 8 Okay, Mr. Cicalese, if you go to the next 9 group of documents in this closing, there is 10 documents from Fidelity's records that have been 11 produced and they are Bates stamped FY-4257 to 12 FY-4273 and as you can see they were used as Exhibit 13 29 in Ms. King's deposition. And then there is a -- 14 the first document is a deed prepared by Mr. Pepsny. 15 A Right. 16 Q And did he usually prepare the deeds for 17 the sale? 18 A Yes. 19 Q Okay. And it's from -- deeding the 20 property from Cristo to Mr. DiCaro. And if you skip 21 back, there is a variety of documents and in -- and 22 if you go to page FY-4264, which is the first page 23 of a mortgage and there is -- in the upper left-hand 24 corner there is an R&R; what does that mean? 25 A I have no idea.</p>
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<p>1 followed on these closings? 2 A As far as I know they were. I don't know 3 what the two circled documents are. The other ones 4 seem to be checked off. 5 Q Is that how you would indicate that the 6 closing instructions had been met, with a line like 7 that? 8 A I think so, yes. 9 Q So other than the fact that Mr. DiCaro was 10 not at the closing, you think these closing 11 instructions were followed? If you could go -- 12 A Huh? 13 Q I said, other than the fact that 14 Mr. DiCaro was not at the closing, you think these 15 set of closing instructions for 105 Bigelow were -- 16 A Yes. 17 Q Thank you. If you could go to the third 18 page of the closing instructions it's CI-4885. 19 There is an appraisal amount to National Home 20 Funding of \$857.50. 21 A Okay. 22 Q Were you familiar with real estate 23 appraisals in 1997? 24 A Not really. 25 Q Did you know how much they cost on</p>	<p>1 Q And then there is a sticker over an 2 address label that says Coastal Title on it; do you 3 see that? 4 A Yes. 5 Q When we had deposed Mr. Agel he said that 6 the R&R meant record and return. 7 A It's possible. 8 Q So this document was -- was going to be 9 recorded and returned to Coastal Title. And then 10 the question that I had that I was confused about 11 was this -- this transaction, according to the HUD-1 12 and the deed closed January 17th of 1997, correct? 13 A Uh-huh. 14 Q And then if you look on page 4257, which 15 is the deed from Cristo to Mr. DiCaro and on 4264, 16 which is the mortgage, both of these it says, are 17 recorded by the Register's Office Essex County, New 18 Jersey on May 5th of 1997. And so my question was: 19 Do you know why it took from the middle of January 20 until the beginning of May, I guess three plus 21 months to record the deed and mortgage on a 22 transaction that had closed in January? 23 A No, I do not. 24 Q And do you know why it was the -- the 25 documents were filed by Coastal Title and not</p>

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<p style="text-align: right;">Page 138</p> <p>1 yourself or Ms. King on your behalf?</p> <p>2 A No, I do not.</p> <p>3 Q Do you recall if this was one of the deeds</p> <p>4 you spoke to Ms. King about?</p> <p>5 A I never looked at the particular deeds,</p> <p>6 which ones they were or anything like that. She</p> <p>7 just told me that she was changing -- yeah, she was</p> <p>8 backdating them or postdating, you know, and I told</p> <p>9 her to stop.</p> <p>10 Q Okay. And then --</p> <p>11 A This would have closed before Lori though.</p> <p>12 Q Well, if you could go to the -- to the</p> <p>13 last page of the mortgage, which is FY-4273 and it</p> <p>14 says beneath Mr. DiCaro's signatures, you see there</p> <p>15 is a variety of notary signatures?</p> <p>16 A Which page was that?</p> <p>17 Q The last page in the mortgage is FY-4273.</p> <p>18 A Yeah.</p> <p>19 Q And the notary that's notarizing this</p> <p>20 mortgage is Suzanne Grieser.</p> <p>21 A Uh-huh.</p> <p>22 Q And Mr. D'Apolito had testified that he</p> <p>23 was at a closing at Capital Assets that you were at</p> <p>24 in which they used Mrs. Grieser's notary to notarize</p> <p>25 these documents.</p>	<p style="text-align: right;">Page 140</p> <p>1 A Uh-huh.</p> <p>2 Q It says that the -- the property is owned</p> <p>3 by Cristo Property Management. And if you look back</p> <p>4 through these documents, if you go back to the third</p> <p>5 group of documents, which are -- are not Bates</p> <p>6 stamped, but they are a deed from Crown Bank and</p> <p>7 Federal Home Mortgage Company transferring the</p> <p>8 property from Crown Bank to Federal Home Loan</p> <p>9 Mortgage Corporation as of May 13th, 1997.</p> <p>10 A Right.</p> <p>11 Q So from this deed at least it's clear that</p> <p>12 Cristo did not own the property on March 23rd, 1997,</p> <p>13 when the title commitment was given.</p> <p>14 A Correct.</p> <p>15 Q So -- and then if you go to the next deed,</p> <p>16 it appears then that the Federal Home Loan Mortgage</p> <p>17 Corporation sells the property to Cristo Property</p> <p>18 Management, LTD on May 23rd, 1997?</p> <p>19 A (Nods head.)</p> <p>20 Q Do you agree with that?</p> <p>21 A Yes.</p> <p>22 Q And then going back to the title</p> <p>23 commitment, if you look at the Schedule B and you</p> <p>24 look through the requirements of Schedule B is --</p> <p>25 Schedule B on this title commitment is incorrect,</p>
<p style="text-align: right;">Page 139</p> <p>1 A Right.</p> <p>2 Q Do you recall, was Mrs. Grieser at that</p> <p>3 closing?</p> <p>4 A No, she wasn't. They took the papers out</p> <p>5 and came back with them.</p> <p>6 Q Did you ever meet Mrs. Grieser?</p> <p>7 A No.</p> <p>8 Q Okay. That confirmed what D'Apolito said.</p> <p>9 MR. MAGNANINI: Okay, Cicalese 15. Amy,</p> <p>10 it's what we have marked as Cicalese 16.</p> <p>11 (Thereupon, the said document was marked</p> <p>12 for identification as Plaintiff's Exhibit Number</p> <p>13 15.)</p> <p>14 BY MR. MAGNANINI:</p> <p>15 Q Mr. Cicalese, I'd ask you to take a look</p> <p>16 at what we have marked as Cicalese Exhibit 15, which</p> <p>17 is documents related to the sale of 608 Third Avenue</p> <p>18 in Asbury Park to a Michelle Moreia.</p> <p>19 Again, as you see, I think a majority of</p> <p>20 the documents came from your files and they are</p> <p>21 Bates stamped CI-1451 and they are kind of spread</p> <p>22 out through CI-1524 is the last page of the HUD-1.</p> <p>23 A Uh-huh.</p> <p>24 Q And then if you could look at CI-1451</p> <p>25 paragraph three.</p>	<p style="text-align: right;">Page 141</p> <p>1 because it does not indicate that the deed from</p> <p>2 Crown Bank to the Federal Home Loan Mortgage</p> <p>3 Corporation and the deed from Federal Home Loan</p> <p>4 Mortgage Corporation to Cristo property needed to be</p> <p>5 recorded prior to the issuance of title.</p> <p>6 A Correct.</p> <p>7 Q Okay. Yeah, the only thing that this</p> <p>8 shows is that a deed from Cristo to Michelle Moreia</p> <p>9 needs to be recorded, correct?</p> <p>10 A Correct.</p> <p>11 Q And then --</p> <p>12 MS. TALAN: Can I put an objection on the</p> <p>13 record that he is not the creator of the</p> <p>14 document, so objection to the question.</p> <p>15 MR. MAGNANINI: Okay. That's fine.</p> <p>16 BY MR. MAGNANINI:</p> <p>17 Q Mr. Cicalese, if you look at the second</p> <p>18 document in this pack, which is Bates stamped</p> <p>19 CI-1448 and 1449.</p> <p>20 A Uh-huh.</p> <p>21 Q Can you tell me what that is?</p> <p>22 A It's a closing protection letter.</p> <p>23 Q Okay. What was the purpose of a closing</p> <p>24 protection letter?</p> <p>25 A Good question. At the time I didn't even</p>

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<p>1 know.</p> <p>2 Q You didn't know at the time you were</p> <p>3 receiving them?</p> <p>4 A No.</p> <p>5 Q It was something that was required by the</p> <p>6 lender though, was it not?</p> <p>7 A Yes.</p> <p>8 Q Okay. And then if you look on the first</p> <p>9 page it says that, "The title insurance company" and</p> <p>10 you can read that paragraph, "will protect the --</p> <p>11 the mortgage bank against number one, the failure of</p> <p>12 the issuing agent or attorney to comply with the</p> <p>13 written closing instructions, to the extent that</p> <p>14 they relate to the title to set interest in land or</p> <p>15 interest in land, including the obtaining of</p> <p>16 documents and a disbursement of funds necessary to</p> <p>17 establish such title of lien", or it says in</p> <p>18 parentheses little B, "the collection and payment of</p> <p>19 funds due to you or fraud of or misapplication by</p> <p>20 the issuing agent or attorney in handling your funds</p> <p>21 in connection with the matters set forth in the</p> <p>22 numbered paragraph one above". Do you see that?</p> <p>23 A Yes.</p> <p>24 Q So the purpose of the closing protection</p> <p>25 letter was to protect the lender against either</p>	<p>1 A They just pushed everything through and</p> <p>2 did it.</p> <p>3 Q And got it done?</p> <p>4 A (Nods head.)</p> <p>5 Q Did they ever, by "they" I mean Mr. Kane</p> <p>6 or Mr. Grieser, have a discussion with you about the</p> <p>7 need to close properties quickly?</p> <p>8 A All the time.</p> <p>9 Q And did they tell you why they needed that</p> <p>10 done?</p> <p>11 A No.</p> <p>12 Q Okay. It was their desire to get as many</p> <p>13 properties closed as soon as possible?</p> <p>14 A It seemed that way and I remember Gary</p> <p>15 constantly telling me that Bill needed money for,</p> <p>16 you know, for something and Bill needs money and</p> <p>17 Bill needs money. And I didn't know what it was for</p> <p>18 but, you know, they just -- that's really why they</p> <p>19 took the first set away because I was taking my</p> <p>20 sweet time doing it and the funds were sitting in</p> <p>21 the account probably a month --</p> <p>22 Q Okay.</p> <p>23 A -- before I actually did the paperwork.</p> <p>24 (Thereupon, Mr. Kott enters the room and</p> <p>25 the following proceedings were had:)</p>
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<p>1 failure to follow closing instructions or the fraud</p> <p>2 or misapplication of funds in conjunction with these</p> <p>3 transactions, correct?</p> <p>4 A Correct.</p> <p>5 Q And so wouldn't you agree that there were</p> <p>6 a number of frauds and misapplication of funds in</p> <p>7 conjunction with these transactions?</p> <p>8 A Yes.</p> <p>9 Q And then if you can flip back to the --</p> <p>10 the last little group of documents, which is the</p> <p>11 HUD-1 --</p> <p>12 A Uh-huh.</p> <p>13 Q -- which is Bates stamp CI-1523 and 1524.</p> <p>14 This is the HUD-1 with Michelle Moreira. Do you</p> <p>15 recall -- you mentioned earlier that there were a</p> <p>16 couple of properties that you found out that had</p> <p>17 closed and Mr. Kane nor his companies did not yet</p> <p>18 own the properties; do you recall if this was one of</p> <p>19 those properties?</p> <p>20 A I don't.</p> <p>21 Q Okay. Do you know, how did they close on</p> <p>22 the property on April 30th when Cristo didn't own it</p> <p>23 until May 23rd, 1997?</p> <p>24 A No, I really don't.</p> <p>25 Q Okay.</p>	<p>1 BY MR. MAGNANINI:</p> <p>2 Q All right. And that probably explains</p> <p>3 why, in going through the loans, we saw you closed</p> <p>4 some in January and then Mr. Yacker closed a number</p> <p>5 in January and I think you closed two loans in</p> <p>6 February.</p> <p>7 A Correct.</p> <p>8 Q And then you started closing again in</p> <p>9 March.</p> <p>10 A Correct.</p> <p>11 Q Okay.</p> <p>12 MR. MAGNANINI: And then, Diana, if you</p> <p>13 would -- Cicalese 16.</p> <p>14 (Thereupon, the said document was marked</p> <p>15 for identification as Plaintiff's Exhibit Number</p> <p>16 16.)</p> <p>17 BY MR. MAGNANINI:</p> <p>18 Q Mr. Cicalese, I'll show you another set of</p> <p>19 documents related to 1 Passaic Street in Carteret</p> <p>20 and it's a sale to Bonnie Wright. And then I'd ask</p> <p>21 you just to go through these documents. As you see</p> <p>22 it's a group of documents. One is a trust account</p> <p>23 for Mr. Kane's records. Then there is a group of</p> <p>24 deeds. There is a HUD-1 Bates stamped CI-3171 and</p> <p>25 CI-3172 from your records. And then a group of --</p>

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<p>1 of your checks CI-3154 through CI-3159.</p> <p>2 A Okay.</p> <p>3 Q And then if you look at the HUD-1 the sale</p> <p>4 is dated May 23rd, 1997.</p> <p>5 A Okay.</p> <p>6 Q And then if you look at the deed packet</p> <p>7 EMC Mortgage Corporation doesn't sell the property</p> <p>8 to Cristo Property Management, LTD until June 23rd,</p> <p>9 1997.</p> <p>10 Is this one of the properties that you had</p> <p>11 discussed earlier that you had told Ms. King to stop</p> <p>12 predating or postdating mortgages and just --</p> <p>13 A I have no idea which deeds were in that</p> <p>14 pile and which weren't.</p> <p>15 Q Okay. So this was -- this looks to be</p> <p>16 another one that -- that Cristo sold before they</p> <p>17 purchased.</p> <p>18 A Yeah.</p> <p>19 Q Okay. And then the other confusion that I</p> <p>20 popped up with this was the same thing. If you</p> <p>21 could go to the HUD-1, which is CI-3172, the second</p> <p>22 page of it.</p> <p>23 A Okay.</p> <p>24 Q And you see again in the recording fees it</p> <p>25 has \$150 and then when you look at the checks and on</p>	<p>1 CI-3158, there is a check in that amount, check 1560</p> <p>2 from your account to Mr. Pepsny's account.</p> <p>3 I believe Mr. Pepsny testified that that</p> <p>4 was him receiving money to pay for the property. Do</p> <p>5 you recall ever getting an instruction from Mr. Kane</p> <p>6 or Mr. Grieser to send a check or a certain amount</p> <p>7 to Mr. Pepsny so he could buy the property?</p> <p>8 A It wasn't that -- they were just telling</p> <p>9 me to send him a check.</p> <p>10 Q They wouldn't tell you what it was for?</p> <p>11 A No.</p> <p>12 Q It's much larger than his --</p> <p>13 A Closing fee.</p> <p>14 Q -- his closing fee. Okay.</p> <p>15 A I didn't know whether Bill owed him money</p> <p>16 or whatever. I was just paying it out of there.</p> <p>17 Q He instructed you to disburse it. All</p> <p>18 right.</p> <p>19 MR. MAGNANINI: And then, Amy, the next</p> <p>20 one will be what we have as Exhibit 21.</p> <p>21 (Thereupon, the said document was marked</p> <p>22 for identification as Plaintiff's Exhibit Number</p> <p>23 17.)</p> <p>24 BY MR. MAGNANINI:</p> <p>25 Q Mr. Cicalese, I'd ask you to take a look</p>
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<p>1 page CI-3159 the ins and outs sheet, the fees are</p> <p>2 \$79 again. So is the amount listed on the HUD-1</p> <p>3 incorrect?</p> <p>4 A I would imagine so.</p> <p>5 Q And then if you could go to the attorney</p> <p>6 trust account form, which is the first page of the</p> <p>7 exhibit, you'll see there is a \$79 recording fee</p> <p>8 that is voided and then a \$55 recording fee that's</p> <p>9 issued and a \$24 recording fee that's issued.</p> <p>10 A Right.</p> <p>11 Q And then why was that done?</p> <p>12 A I don't know.</p> <p>13 Q And then one last question on this: On</p> <p>14 the ins and outs sheets is that your handwriting,</p> <p>15 the CI-3159?</p> <p>16 A It might be.</p> <p>17 Q If you see down at the bottom there is 18K</p> <p>18 Gary; that's Mr. Grieser?</p> <p>19 A Right.</p> <p>20 Q 12K Bill; that's Bill Kane?</p> <p>21 A Right.</p> <p>22 Q And then balance to Rick; it says</p> <p>23 5,5265.41.</p> <p>24 A Right.</p> <p>25 Q And if you go back to the previous page,</p>	<p>1 at what we have marked as Cicalese Number 17, which</p> <p>2 is a document Bates stamped CI-7061 dated July 16th,</p> <p>3 1997, which was after the point in which the frauds</p> <p>4 had been made --</p> <p>5 A Right.</p> <p>6 Q -- public on your letterhead. I believe</p> <p>7 that's your signature --</p> <p>8 A Yes.</p> <p>9 Q -- to Sally at Coastal Title Agency. And</p> <p>10 so --</p> <p>11 A Lori worked with me for a while after. We</p> <p>12 just tried to operate on whatever I had, you know?</p> <p>13 Q Okay.</p> <p>14 A And she was trying to clean up a lot of</p> <p>15 the work, which I guess she knew was wrong.</p> <p>16 Q Okay.</p> <p>17 A And, I guess, you know, she worked with me</p> <p>18 until that was pretty much done. Then I had no more</p> <p>19 work and I had to let her go and I closed up the</p> <p>20 office up there and went bye-bye.</p> <p>21 Q Okay. So at some point were you paying</p> <p>22 Ms. King?</p> <p>23 A Yeah, afterwards.</p> <p>24 Q When did Mr. Kane or Mr. Grieser or</p> <p>25 either/or stop paying Ms. King?</p>

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<p>1 A To my knowledge after all this happened, 2 you know, after everything was shut down. 3 Q Once there were no more closings -- 4 A Right. 5 Q -- there was no more money to pay her? 6 A Right. 7 Q But you kept her on to try and clean up 8 the problems? 9 A She said I am out of work. If you let me 10 go, you know, she was telling me I had a kid to 11 feed. I said I will keep you as long as I can. I 12 said I have a few other things that we can do in the 13 meantime. I said, it's not a lot. I said, we'll 14 clean up whatever mess we can get cleaned up here, 15 and try to do the right thing, and try and get this 16 straightened out as we can and we will go as far as 17 we can. You know, we worked until I couldn't pay 18 her anymore and I had no more work and that was 19 that. 20 Q And that was it. As I said we deposed 21 Mr. Agel and he had said that he had stopped doing 22 work with you in June, but we have seen 23 correspondence, you requesting documents on -- that 24 had been requested by Walsh Securities; do you 25 recall if you received title policies or commitments</p>	<p>1 Housing Agency to Capital Assets, and as you see at 2 the bottom it's Bates stamped CI-7062. Do you know 3 why this letter was in your files? 4 A I have never seen it before. 5 Q Okay. And do you know what -- what the 6 purpose of this letter was? 7 A It appears that they were questioning the 8 title on these properties. 9 Q Were you aware that Capital Assets was 10 receiving rental assistance programs for apparently 11 renters in some of its properties? 12 A No. 13 Q Did you have any involvement with any 14 litigation involving any of the renters of Capital 15 Assets properties? 16 A I did some landlord/tenant stuff for Gary 17 at some point. 18 Q When was that? 19 A It was during this process. You know, 20 during these months he had me -- there was a -- 21 there was some people in some of the properties I 22 guess that were being actually rented and they 23 weren't paying rent or whatever and I had to go to 24 court a couple of times for them. 25 Q Okay. And then do you recall who the</p>
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<p>1 or any information from Coastal after this was all 2 public? 3 A I don't recall but I don't think we did. 4 Q Okay. 5 A I couldn't say with 100 percent certainty, 6 but I don't believe we did at that point. 7 Q And then when do you think that you 8 stopped operating your law offices? 9 A Probably it was -- I remember -- I 10 remember sending something to Lori for Christmas 11 that year. I gave her some money and a few things 12 and she was making these dolls, trying to sell dolls 13 and things to make it and I bought a couple of dolls 14 off of her, so it had to be maybe October, November, 15 somewhere around there. 16 Q November of 1997? 17 A Yeah. 18 Q Okay. I will show you one more, 19 Mr. Cicalese, Exhibit 19. 20 (Thereupon, the said document was marked 21 for identification as Plaintiff Exhibit Number 18.) 22 BY MR. MAGNANINI: 23 Q Mr. Cicalese, this is a letter certified 24 mail. It's actually -- it's tough to read up top, 25 but I will tell you it's from the Monmouth County</p>	<p>1 individuals were? 2 A No. 3 Q Do you recall which properties they were? 4 A No, but I think one of them was in 5 Freehold, if I am not mistaken. All of the 6 litigation was in Freehold but... 7 Q That's where the Monmouth County court -- 8 A Yeah. But I think one of the apartments 9 might have been -- there is an apartment building on 10 Adelphia Road, there is a bend and you come to a 11 Mobil station; are you familiar with the area there? 12 Q A little bit, yeah. 13 A And the road sort of bends around to the 14 left and there is an apartment complex there. I 15 think one of the apartments might have been in 16 there. 17 Q Oh, so it was an apartment in a complex -- 18 A Yeah. 19 Q -- not one of these individual homes? 20 A Yes. 21 Q And how were you compensated for that 22 work? 23 A I think -- I think Gary just paid me for 24 it. I don't remember. 25 Q Okay. But it was landlord/tenant court?</p>

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<p>1 A Yeah, yeah.</p> <p>2 Q Down at the bottom on this document, under</p> <p>3 the signature of Mr. Phil Siciliano, there is that</p> <p>4 handwriting there that says joint venture agreement;</p> <p>5 do you recognize that handwriting?</p> <p>6 A No.</p> <p>7 Q Okay.</p> <p>8 MR. MAGNANINI: Is David back? Why don't</p> <p>9 we take a break and I'll -- I think I am almost</p> <p>10 done and then we can turn it over to you.</p> <p>11 MR. KOTT: I am back, Bob. So...</p> <p>12 MR. MAGNANINI: Okay. That's good, I'm</p> <p>13 through all the paper, so let me just check my</p> <p>14 notes and we will go back on the record in</p> <p>15 five.</p> <p>16 THE VIDEOGRAPHER: The time is 16:35.</p> <p>17 Going off the record.</p> <p>18 (Thereupon, a recess was taken at 2:39</p> <p>19 p.m. - 2:52 p.m., after which the following</p> <p>20 proceedings were had:)</p> <p>21 THE VIDEOGRAPHER: The time is 16:52. We</p> <p>22 are back on the record.</p> <p>23 BY MR. MAGNANINI:</p> <p>24 Q Mr. Cicalese, a few follow-up questions</p> <p>25 and I will leave you alone for the moment.</p>	<p>1 transactions, called Walsh Securities and was</p> <p>2 referred to Betty Ann Demola, correct?</p> <p>3 A Right.</p> <p>4 Q Who did you speak to initially at Walsh</p> <p>5 Securities?</p> <p>6 A I don't know.</p> <p>7 Q And do you know why you ended up speaking</p> <p>8 to Ms. Demola?</p> <p>9 A No, I was just transferred around to her.</p> <p>10 Q Okay. And then you said the substance of</p> <p>11 your conversation was you were -- well, I will just</p> <p>12 ask you: What was the substance of your</p> <p>13 conversation?</p> <p>14 A Basically, I was a little concerned that</p> <p>15 at the closings they were -- they were basically</p> <p>16 selling off 60 percent of the property to Capital</p> <p>17 Assets, and there was no paperwork indicating that</p> <p>18 sale to Walsh, who was the lender who had an</p> <p>19 interest, you know, now in only 40 percent of a</p> <p>20 property that they had an interest in 100 percent of</p> <p>21 before and they told me they were okay with that</p> <p>22 and...</p> <p>23 Q And Ms. Demola said that?</p> <p>24 A Yeah.</p> <p>25 Q Did Walsh Securities receive copies of the</p>
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<p>1 If you could go back to what we marked as</p> <p>2 Cicalese Exhibit 14, which was the -- the Louis</p> <p>3 DiCaro loan of 105 Bigelow Street. If you can look</p> <p>4 at the closing instructions by Walsh Securities,</p> <p>5 which is the second set of documents. It was</p> <p>6 CI-4883 to CI-4885. On the last page CI-4885 it</p> <p>7 says -- there is a line for settlement agent's</p> <p>8 signature.</p> <p>9 A Right.</p> <p>10 Q Do you see that and your name is beneath</p> <p>11 that as settlement agent Anthony Cicalese.</p> <p>12 A Uh-huh.</p> <p>13 Q But that is not your signature, correct?</p> <p>14 A No, it is not.</p> <p>15 Q Do you know how it came to be that</p> <p>16 Mr. DiCaro or someone signing for him signed the</p> <p>17 closing instructions as the settlement agent?</p> <p>18 A No, I don't.</p> <p>19 Q Okay. And then earlier you had</p> <p>20 testified -- that's okay. We are -- okay. When you</p> <p>21 are done.</p> <p>22 A Okay.</p> <p>23 Q Just an oddity. Another in a long line.</p> <p>24 Earlier you had testified that you had --</p> <p>25 at some point, when you became involved with these</p>	<p>1 joint ventures agreements or joint venture deeds as</p> <p>2 far as you know?</p> <p>3 A I don't believe so.</p> <p>4 Q And did you tell Ms. Demola that, on that</p> <p>5 phone call, that Mr. Kane was purchasing properties</p> <p>6 and then --</p> <p>7 A No, I didn't.</p> <p>8 Q -- and then selling them before he</p> <p>9 purchased them?</p> <p>10 A I was unaware at that time that was</p> <p>11 happening.</p> <p>12 Q Did you tell Ms. Demola that -- that the</p> <p>13 deeds were not being filed, they were being held and</p> <p>14 they were being predated or postdated?</p> <p>15 A That phone call was long before I knew</p> <p>16 anything about that.</p> <p>17 Q Did you tell Ms. Demola that you had</p> <p>18 received \$20,000 to hold in escrow and that there</p> <p>19 wasn't actual escrow amounts for each individual</p> <p>20 sale?</p> <p>21 A No, I did not.</p> <p>22 Q Okay. Did you tell Ms. Demola how the</p> <p>23 money was being divided up --</p> <p>24 A No.</p> <p>25 Q -- from the closing?</p>

40 (Pages 154 to 157)

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A. CICALSE

<p style="text-align: right;">Page 158</p> <p>1 A The gist of the conversation was just that 2 I wanted to make sure that they were aware of them 3 giving away 60 percent of the property to Capital 4 Assets, and she said they were okay with that and it 5 was that. I probably should have written a letter, 6 you know, but I didn't and that's all there was to 7 it. 8 It was really for my own -- to make myself 9 feel better about, you know, that I brought it to 10 their attention, because I was really worried about 11 it at the time. You know, had she said at the time 12 oh, wait a minute, I don't know about that that 13 would have been the last one that I did right then 14 and there, you know, but they gave me every 15 indication that they were fine with the way these 16 transactions were being transferred. 17 Q And did you speak to anyone else at Walsh 18 Securities about your concerns? 19 A No. 20 Q Anybody in the legal department? 21 A No. 22 Q Or anybody else? 23 A (Shakes head.) 24 Q And when do you think this phone call 25 occurred? You started --</p>	<p style="text-align: right;">Page 160</p> <p>1 knew or he knew that you had called Walsh 2 Securities? 3 A No. 4 MR. MAGNANINI: I don't have anything 5 further at this time. Somebody on that end 6 will start. 7 CROSS-EXAMINATION 8 BY MR. KOTT: 9 Q Mr. Cicalse, my name is David Kott and 10 again, I represent the defendant, Commonwealth Land 11 Title Insurance Company and I have a few questions 12 for you. 13 A Sure. 14 Q With respect to your conversation with 15 Ms. Demola where you informed her that there was a 16 sale of 60 percent of the property, you said at one 17 point that you were really worried about that and 18 that's why you spoke to Ms. Demola. Why were you 19 really worried about that? 20 A Well, it didn't sit right with me that the 21 bank was loaning money on a piece of property to an 22 individual and that individual was there for -- you 23 know, was selling off an interest of it, without any 24 notification to the lender who held a note on that 25 piece of property.</p>
<p style="text-align: right;">Page 159</p> <p>1 A It was probably fairly early on into this 2 thing for me. 3 Q So you did a few closings in January and 4 then started doing regularly in March. 5 A It was probably in March or, you know, 6 April that... 7 Q And did you ever meet Ms. Demola 8 subsequent to that conversation? 9 A I think I met her when we went to that 10 little meeting just briefly. Hi, this is Betty Ann. 11 Hi, Betty Ann, and then I was off on my little tour 12 and they did their business. 13 Q Okay. Did you ever talk to her about the 14 joint venture concerns at that meeting? 15 A No. 16 Q And did you ever speak to anybody at Walsh 17 Securities about your joint venture concerns when 18 you were at Walsh Securities? 19 A No, but afterwards I know -- after I made 20 the phone call, I do remember that I think it was 21 Bill that asked me not to call. 22 Q To call -- 23 A He said, if you have any questions just 24 ask me. He says, you know... 25 Q How do you know -- did he tell you how you</p>	<p style="text-align: right;">Page 161</p> <p>1 Q Are you familiar with a clause called a 2 due on sale clause? 3 A No, no, I am not. 4 Q What I am referring to is a clause in a 5 mortgage that says that if the borrower sells the 6 property the mortgage is fully payable at that time. 7 A Okay. 8 Q Does that sound familiar to you or not? 9 A Yeah, I have seen them. I just, you know, 10 I didn't know if it pertained in this particular 11 instance. I didn't see the actual note. 12 Q Right. At any point did Ms. Demola say to 13 you that if there was this sale of 60 percent that 14 you told her about, that the mortgage would become 15 payable in its entirety? 16 A No, she didn't. 17 Q You also said very early in your 18 deposition that something was happening at the 19 closings that did not sit right with you; is that 20 what you are referring to, the 60 percent sale? 21 A Yes, that and the fact that the, you know, 22 the people weren't coming in in the beginning and 23 they weren't there at the closing. They were 24 handing me documents that were already signed and 25 they expected me to notarize them, things like that.</p>

41 (Pages 158 to 161)

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A. CICALSE

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<p>1 Q Okay. Did you tell Ms. Demola those</p> <p>2 things, that people were not coming in and the other</p> <p>3 things you mentioned in that last answer?</p> <p>4 A No, the gist of my conversation with her</p> <p>5 was just really the fact that they were flipping</p> <p>6 away part of the interest in the properties, and I</p> <p>7 wanted to make sure that they were aware of it and</p> <p>8 she said they were and I said okay.</p> <p>9 Q Okay. With respect to your conversation</p> <p>10 with Mr. Kane, after you spoke to Ms. Demola, was it</p> <p>11 your impression that Mr. Kane was aware that you had</p> <p>12 called Ms. Demola?</p> <p>13 A Yes.</p> <p>14 Q And I think you said you didn't --</p> <p>15 withdrawn.</p> <p>16 Did you tell Mr. Kane that you had called</p> <p>17 Ms. Demola?</p> <p>18 A At some point I did.</p> <p>19 Q Or did he find out --</p> <p>20 A I don't remember whether it was --</p> <p>21 Q Did Mr. Kane --</p> <p>22 A -- whether I just came out and told him I</p> <p>23 was going to call her or whether I told him I was</p> <p>24 going to call her, but I don't know whether -- I</p> <p>25 don't really remember how it came about that</p>	<p>1 A No, I didn't know he worked for National</p> <p>2 Home Funding.</p> <p>3 Q Okay. You never heard that until I just</p> <p>4 asked it?</p> <p>5 A Right.</p> <p>6 Q At any point after the frauds became</p> <p>7 public, did you speak to Ms. Demola?</p> <p>8 A No. I only spoke -- the only time I spoke</p> <p>9 to Ms. Demola was that time on the telephone and</p> <p>10 then when I was introduced to her, when we made the</p> <p>11 little trip up there, you know, to the office that</p> <p>12 time I was briefly introduced to her. I said hello</p> <p>13 and then I was off on my little tour and -- while</p> <p>14 they went about their business.</p> <p>15 Q At any point after the frauds became</p> <p>16 public, did you speak to anybody from Walsh</p> <p>17 Securities?</p> <p>18 A No, not that I remember.</p> <p>19 Q When you spoke with Ms. Demola and told</p> <p>20 her about the flip to the 60 percent, you know what</p> <p>21 I am referring to?</p> <p>22 A Uh-huh.</p> <p>23 Q Did you tell her who was the 60 percent,</p> <p>24 that is, who were the partners in the joint venture?</p> <p>25 A I think I mentioned that it was to Capital</p>
Page 163	Page 165
<p>1 Mr. Kane was aware of the conversation.</p> <p>2 Q And that's my question: Do you know</p> <p>3 whether Mr. Kane became aware of the conversation</p> <p>4 because Ms. Demola told him about it?</p> <p>5 A I can't recall. I may have told Mr. Kane</p> <p>6 that I was going to call. I don't even remember.</p> <p>7 It's been so long.</p> <p>8 Q Well, if you had told him you were going</p> <p>9 to call he would have said to you you don't need to</p> <p>10 call just ask me, right?</p> <p>11 A Probably, knowing Bill.</p> <p>12 Q Okay. So we can eliminate you telling</p> <p>13 Mr. Kane about that. So my question is: Did</p> <p>14 Mr. Kane learn that you had called Ms. Demola from</p> <p>15 someone other than you?</p> <p>16 A I don't remember. I don't remember</p> <p>17 whether I told him I called her or whether she told</p> <p>18 him I called her. I really don't remember.</p> <p>19 Q Okay. You had also testified about Lori,</p> <p>20 and I think that was Lori King, telling you that</p> <p>21 Kane had filled out the loan applications.</p> <p>22 A Yes.</p> <p>23 Q Did Lori also tell you that Kane had</p> <p>24 filled out the loan applications while he was</p> <p>25 working for National Home Funding?</p>	<p>1 Assets.</p> <p>2 Q Right. Did you tell her who Capital</p> <p>3 Assets was?</p> <p>4 A I really couldn't say with 100 percent</p> <p>5 certainty. Everything has been so long ago.</p> <p>6 Q Did Ms. Demola ask you who owned Capital</p> <p>7 Assets?</p> <p>8 A No.</p> <p>9 Q And you -- you talked about a -- being in</p> <p>10 a party. What was the party you were at?</p> <p>11 A I think it was a Christmas party.</p> <p>12 Q And who was the host or hostess?</p> <p>13 A I believe it was -- I think it was like a</p> <p>14 joint party between -- between Gary's company and</p> <p>15 Bill's.</p> <p>16 Q Okay. And where was that party? Was it</p> <p>17 at local restaurant?</p> <p>18 A I really can't remember. It was somewhere</p> <p>19 down the shore.</p> <p>20 Q Can you remember -- can you remember</p> <p>21 whether it was at a restaurant or tavern called</p> <p>22 Money Makers?</p> <p>23 A No, I can't remember. That name is not</p> <p>24 familiar though.</p> <p>25 Q Do you remember whether -- do you remember</p>

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A. CICALEASE

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<p>1 whether Mr. Skowrenski from National Home Funding 2 was at that party? 3 A I believe he was. 4 Q And do you remember whether Mr. Kane was 5 at that party? 6 A Yeah, I am sure he was. 7 Q And do you remember whether anybody from 8 Walsh Securities was at that party? 9 A No, I wouldn't have known them at the 10 time. 11 MR. KOTT: Thank you, sir. I do not have 12 any questions, but some of the other lawyers 13 may. 14 MS. TALAN: Can I go off the record for 15 one second? 16 THE VIDEOGRAPHER: The time is 17:06. 17 Going off the record. 18 (Thereupon, a brief recess was taken.) 19 THE VIDEOGRAPHER: 17:07. We are back on 20 the record. 21 CROSS-EXAMINATION 22 BY MS. TALAN: 23 Q This is Lauren Talan from Fox Rothschild 24 for Nations Title Insurance of New York, Inc. and 25 Fidelity National Title insurance Company of New</p>	<p>1 the funds properly, you personally? 2 A I believe I did. 3 Q Did you disburse any of the funds before 4 closing occurred? 5 A I -- in looking at some of these it 6 appears as though I did. At the time I wasn't aware 7 of it. 8 Q So at the time it was your opinion you 9 were disbursing the funds after the closing? 10 A Correct. 11 Q That was your belief at the time, correct: 12 is that correct? 13 A Correct. 14 Q Just to sum up then: It was your belief 15 at the time that the deeds were being recorded and 16 that the funds were being distributed properly? 17 A Yes. 18 Q Is that a correct summary of your 19 testimony? 20 A Yes, yes. I was unaware that they were 21 holding the deeds and that they had not closed on 22 the properties, before we were actually selling them 23 on the other end. 24 MS. TALAN: That's all. 25 MR. MCGOWAN: I have a couple.</p>
Page 167	Page 169
<p>1 York and I just have a few questions. 2 With respect to the closings, did you -- 3 in your opinion did you handle the closings and 4 these deals properly? 5 A In hindsight, no. At the time I was very 6 inexperienced. I really had never done closings 7 before and looking back at it I'd say probably not. 8 Q But at the time was it your opinion that 9 you believed you were handling them properly, you 10 personally? 11 A I was trying -- I saw things that I didn't 12 like and I was trying to correct them as we went 13 along as best I could, and they seemed to acquiesce 14 to the changes I wanted to make and want to -- Gary 15 Grieser, at least seemed to want to have everything 16 done correctly. Bill on the other hand -- 17 Q Did you want to have any -- I'm sorry. 18 A Go ahead. 19 Q Did you want to have everything done 20 correctly? 21 A Yes, I did. 22 Q Did you follow the closing instructions 23 that were given to you? 24 A As closely as I could, yes. 25 Q And regarding the money, did you handle</p>	<p>1 CROSS-EXAMINATION 2 BY MR. MCGOWAN: 3 Q Mark McGowan and I represent Coastal 4 Title. 5 In the grand scheme of things here, who 6 was supposed to file the deeds and the mortgages and 7 everything such that they were recorded in the 8 clerk's office? 9 A My office was supposed to do that and Lori 10 King was, to my knowledge handling that. 11 Q Okay. What you just said about 30 seconds 12 ago was you're surprised to find today that some of 13 the deeds were held onto. I think you used the 14 words they held onto the deeds; do you remember 15 saying that? 16 A Right. 17 Q Who is "they?" 18 A Well, Lori. Lori was, you know, holding 19 the deeds and I -- I was just cutting checks and 20 expecting that they were being sent right out to be 21 recorded. You know, at some point in time I saw 22 that that wasn't happening and that's when I told 23 her don't you dare change the dates on any of those 24 things. You put the date that is there. 25 Q Okay. Stanley Yacker testified -- I</p>

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A. CICALESE

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<p>1 understand that you were not involved in any of the 2 transactions that he was involved; is that correct? 3 A No, I never knew Stanley Yacker. 4 Q Stanley Yacker indicated that one of the 5 reasons why he didn't file deeds and such was 6 because he didn't have the money to do it, and 7 that's when Coastal had to come in and throw in some 8 money and get a lot of things filed; do you have any 9 knowledge of that scenario at all? 10 A No, I didn't. I had asked them many times 11 why they stopped doing business with Yacker and they 12 just told me that Yacker wanted too much money to 13 close the properties for them. 14 Q Okay. Was Lori King an employee of yours 15 during the transactions that you were involved? 16 A Well, she was supposed to be, but as you 17 can see, she was being paid out of the closings and 18 Bill Kane was paying her. You know, I always said 19 it was kind of a funny situation for me. I wasn't 20 very happy with it, but it was sort of either it was 21 that way or it wasn't going to be any way. I was -- 22 I intended -- I had intended -- 23 Q The address you had you ran an office out 24 of that address, did you not? 25 A Correct.</p>	<p>1 Exhibit 14, the Louis DiCaro closing and then if you 2 could go to Exhibit 8, which was the trust fund and 3 go to the third page of this. I think it's 108. 4 Yeah, here it is 105 West Bigelow Street. And I'd 5 ask you to take a look at the HUD-1 form in the 6 DiCaro closing that you have in front of you, Bates 7 stamp CI-4881. And you see on line 201 it says 8 deposit or earnest money -- 9 A Correct. 10 Q \$9,800. Where in the trust account does 11 it show that any deposit or earnest money was -- 12 A I don't -- now I am starting to -- I was 13 never allowed to deposit the check. I was just told 14 to hold it. 15 Q Okay. All right. 16 A At some point they asked me to return the 17 check. 18 Q Who told you not to deposit the check? 19 A I don't remember if it was Bill or Gary or 20 both. 21 Q Okay. So that actually then on this HUD 22 that shows 9800 in deposit earnest money, that's 23 false because the money -- 24 A Yeah, I had a check in the file for 15 or 25 \$20,000, but it was never deposited to the account.</p>
Page 171	Page 173
<p>1 Q Was Lori King on the payroll of that 2 office? 3 A Lori was being paid strictly what she was 4 being paid from there. I wasn't paying her anything 5 on top of it. 6 Q Okay. So she was getting the \$250 to show 7 up on all these closings statements for closing, 8 right? 9 A Right. 10 Q She is not a lawyer, is she? At the time 11 she wasn't a lawyer? 12 A No, she's never been a lawyer. 13 Q Okay. We have also seen some deeds at the 14 very top saying prepared by Lorraine King, have you 15 seen such deeds? 16 A Yes. 17 Q All right. Was it proper back then for a 18 nonlawyer to prepare deeds? 19 A I don't know. 20 MR. MCGOWAN: Okay. All right. I have 21 nothing else. Thank you. 22 MR. MAGNANINI: I just have one follow-up. 23 REDIRECT EXAMINATION 24 BY MR. MAGNANINI: 25 Q Mr. Cicalese, if you can go back to the</p>	<p>1 Q It was never deposited. Okay. And that's 2 why -- 3 A That's why it's not showing. I remember 4 it now. 5 Q Okay. And then I think I asked this but 6 again, on this particular loan it shows that the 7 recording fees are supposed to be \$150, but it 8 appears as if -- 9 A I think that was an estimated number that 10 Lori was just putting on there at the time and then 11 we paid what the actual fees were. 12 Q Okay. Which were -- \$79, which left you 13 with 71 in the trust account. 14 A Probably. 15 Q And then -- okay. 16 MR. MAGNANINI: So that's all I had. 17 BY MR. MAGNANINI: 18 Q When did you return the check to 19 Mr. Kane or Mr. Grieser? 20 A I don't remember what the timing was, but 21 at some point they asked me for it back. They said 22 it wasn't going to be required anymore that there 23 were deposits on the properties. They were going to 24 use the second mortgages, I think. 25 MR. MAGNANINI: Okay. I have nothing</p>

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A. CICALSE

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1 further.	1 ERRATA SHEET
2 MR. MCGOWAN: We are done here. No	2 RE : WALSH SECURITIES, INC. VS. CRISTO PROPERTY
3 further questions.	3 MANAGEMENT, LTD., ET AL.
4 MR. KOTT: No further questions.	4 DEPO OF ANTHONY M. CICALSE
5 THE VIDEOGRAPHER: Time is 17:16. The	5 TAKEN : September 29, 2010
6 deposition concluded. Off the record.	6 DO NOT WRITE ON TRANSCRIPT, ENTER ANY CHANGES HERE
7 (Thereupon, the taking of the deposition	7 Page # Line # Change Reason
8 was concluded at 3:15 p.m.)	8
9	9
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1 RE : WALSH SECURITIES, INC. VS. CRISTO PROPERTY	1 CERTIFICATE OF OATH OF WITNESS
2 MANAGEMENT, LTD., ET AL.	2
3 DEPO OF ANTHONY M. CICALSE	3 STATE OF FLORIDA)
4 TAKEN : September 29, 2010	4) SS:
5	5 COUNTY OF MIAMI-DADE)
6 EXCEPT FOR ANY CORRECTIONS	6 I, DIANA SANTOS, Notary Public in and for
7 MADE ON THE ERRATA SHEET BY	7 the State of Florida at Large, certify that the
8 ME, I CERTIFY THIS IS A TRUE	8 witness, ANTHONY M. CICALSE, personally appeared
9 AND ACCURATE TRANSCRIPT.	9 before me on September 29, 2010 and was duly sworn
10 FURTHER DEPONENT SAYETH NOT.	10 by me.
11 ANTHONY M. CICALSE	11 WITNESS my hand and official seal this
12	12 11th day of October, 2010.
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A. CICALEASE

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1 REPORTER'S DEPOSITION CERTIFICATE	1
2	2
3	3
4 I, DIANA SANTOS, certify that I was	4 October 11, 2010
5 authorized to and did stenographically report the	5 ROBERT A. MAGNANINI, ESQUIRE
6 deposition of ANTHONY M. CICALEASE, the witness	6 ARY WALKER WAGNER, ESQUIRE
7 herein on September 29, 2010; that a review of the	7 STONE & MAGNANINI LLP
8 transcript was requested; that the foregoing pages	7 150 John F. Kennedy Parkway
9 numbered from 1 to 174 inclusive is a true and	8 Fourth Floor
10 complete record of my stenographic notes of the	8 Short Hills, New Jersey 07078
11 deposition by said witness; and that this	9 RE : WALSH SECURITIES, INC. VS. CRISTO PROPERTY
12 computer-assisted transcript was prepared under my	9 MANAGEMENT, LTD., ET AL.
13 supervision.	10 DEPO OF: ANTHONY M. CICALEASE
14 I further certify that I am not a	10 TAKEN : October 11, 2010
15 relative, employee, attorney or counsel of any of	11 READ & SIGN BY: 30 days
16 the parties, nor am I a relative or employee of any	12
17 of the parties' attorney or counsel connected with	12 Dear ROBERT A. MAGNANINI, ESQUIRE:
18 the action.	13
19 DATED this 11th day of October, 2010.	13 The original transcript of the deposition listed
20	14 above was previously provided to your office. The
21	14 witness did not waive reading and signing and was
22	15 duly notified to come in and read the transcript
23	16 Attached to this letter you will find a copy
24	16 of the corrections made by the witness.
25	17 PLEASE ATTACH THEM TO YOUR COPY OF THE
	17 DEPOSITION SO IT WILL BE COMPLETE.
	18
	18 The witness made no corrections to transcript.
	19
	19 As of the above date, the witness has not come
	20 in to read and sign the transcript. Please
	20 attach this letter to the original transcript
	21 so it will be complete.
	22 Sincerely,
	23
	23 DIANA SANTOS
	24
	24 cc:
	25 All counsel
Page 179	
1	
2	
3	
4 October 11, 2010	
5 ANTHONY M. CICALEASE	
6 c/o ROBERT A. MAGNANINI, ESQUIRE	
7 STONE & MAGNANINI, LLP	
8 150 JFK Parkway	
9 Short Hills, New Jersey 07078	
10 RE : WALSH SECURITIES, INC. VS. CRISTO PROPERTY	
11 MANAGEMENT, LTD., ET AL.	
12 DEPO OF: ANTHONY M. CICALEASE	
13 TAKEN : September 29, 2010	
14 READ & SIGN BY: 30 days	
15 Dear ANTHONY M. CICALEASE:	
16 This letter is to advise you that the transcript	
17 of the deposition listed above is completed and	
18 is awaiting reading and signing.	
19 Please arrange to stop by our office in Suite 1020,	
20 19 West Flagler Street, Miami, Florida to read and	
21 sign the transcript. Our office hours are from	
22 a.m. to 4:00 p.m. Monday through Friday.	8:00
23 Depending on the length of the transcript, you	
24 should allow yourself sufficient time.	
25	
1 If the reading and signing has not been completed	
2 prior to the referenced date, we shall conclude	
3 that you have waived the reading and signing of the	
4 deposition transcript.	
5 Your prompt attention to this matter is appreciated.	
6 Sincerely,	
7	
8 DIANA SANTOS	
9	
10 cc: All counsel	
11	
12	
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